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SENATE FILE

314

BY COMMITTEE ON EDUCATION

Referred to Ways + Means 3/11/03

(SUCCESSOR TO SSB 1093)

Passed Senate, Date _____

Passed House, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the establishment of a school infrastructure
2 financing program by providing for a local option school
3 infrastructure sales tax and providing for the use of the
4 revenues from the local option tax for school infrastructure
5 or property tax relief purposes and including an effective
6 date.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 314

1 Section 1. Section 422E.1, subsection 3, Code 2003, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:

4 3. Local sales and services tax moneys received by a
5 county for school infrastructure purposes pursuant to this
6 chapter shall be utilized for school infrastructure needs.
7 For purposes of this chapter, "school infrastructure purposes"
8 means those purposes for which a school district is authorized
9 to contract indebtedness and issue general obligation bonds
10 under chapter 296 or to expend tax revenues under section
11 298.3, the payment of principal and interest on general
12 obligation bonds issued under chapter 296 or section 298.20 or
13 loan agreements under section 297.36, for carrying on public
14 educational and recreational activities pursuant to chapter
15 300, payments made pursuant to a lease or lease-purchase
16 agreement, or the payment of principal and interest on and the
17 retirement of bonds issued under section 422E.4.

18 Sec. 2. Section 422E.1, Code 2003, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 4. a. This chapter does not apply to any
21 county on or after April 1, 2003, except to the extent
22 provided in paragraph "b".

23 b. A county that has voted on and approved prior to April
24 1, 2003, a local sales and services tax for school
25 infrastructure purposes shall impose the tax until the end of
26 the ten-year period or the date for repeal specified on the
27 ballot. A county that has published notice of the ballot
28 proposition prior to April 1, 2003, may hold the election and
29 if a majority of those voting on the question favor the
30 imposition, the county shall impose the local sales and
31 services tax for school infrastructure purposes until the end
32 of the ten-year period or the date for repeal specified on the
33 ballot.

34 Sec. 3. NEW SECTION. 422F.1 AUTHORIZATION -- RATE OF TAX
35 -- USE OF REVENUES.

1 1. A local option school infrastructure sales tax may be
2 imposed by a county on behalf of school districts as provided
3 in this chapter.

4 If a local option school infrastructure sales tax is
5 imposed by a county pursuant to this chapter, a local excise
6 tax for school infrastructure at the same rate shall be
7 imposed by the county on the purchase price of natural gas,
8 natural gas service, electricity, or electric service subject
9 to tax under chapter 423 and not exempted from tax by any
10 provision of chapter 423. The local excise tax for school
11 infrastructure is applicable only to the use of natural gas,
12 natural gas service, electricity, or electric service within
13 the incorporated and unincorporated areas of the county where
14 it is imposed and, except as otherwise provided in this
15 chapter, shall be collected and administered in the same
16 manner as the local option school infrastructure sales tax.
17 For purposes of this chapter, "local option school
18 infrastructure sales tax" shall also include the local excise
19 tax for school infrastructure.

20 2. The maximum rate of tax shall be one percent. The tax
21 shall be imposed without regard to any other local sales and
22 services tax authorized in chapter 422B, and is repealed at
23 the expiration of a period of ten years of imposition or a
24 shorter period as provided in the ballot proposition.
25 However, all local option school infrastructure sales taxes
26 are repealed December 31, 2022. The tax is in lieu of the
27 local sales and services tax for school infrastructure
28 authorized in chapter 422E.

29 3. Local option school infrastructure sales tax moneys
30 received by a county pursuant to this chapter shall be
31 utilized for school infrastructure purposes or property tax
32 relief. For purposes of this chapter, "school infrastructure
33 purposes" means those purposes for which a school district is
34 authorized to contract indebtedness and issue general
35 obligation bonds under chapter 296 or to expend tax revenues

1 under section 298.3, the payment of principal and interest on
2 general obligation bonds issued under chapter 296 or section
3 298.20 or loan agreements under section 297.36, for carrying
4 on public educational and recreational activities pursuant to
5 chapter 300, payments made pursuant to a lease or lease-
6 purchase agreement, or the payment of principal and interest
7 on bonds issued under section 422F.5.

8 Sec. 4. NEW SECTION. 422F.2 SCHOOL DISTRICT
9 INFRASTRUCTURE SALES TAX FUND.

10 1. a. A school district infrastructure sales tax fund is
11 created as a separate and distinct fund in the state treasury
12 under the control of the department of revenue and finance.
13 Moneys in the fund include revenues credited to the fund
14 pursuant to section 422F.3, subsection 6, from all counties
15 that impose the tax, appropriations made to the fund, and
16 other moneys deposited into the fund. The moneys credited in
17 a fiscal year to the fund shall be distributed as provided in
18 paragraph "b".

19 b. (1) Each school district located in whole or in part
20 in a county that has imposed the local option school
21 infrastructure sales tax pursuant to this chapter shall
22 receive distributions for each student attending school in the
23 county on a per student basis calculated by the director of
24 revenue and finance by dividing the moneys available during
25 the previous calendar quarter by the combined actual
26 enrollment for all school districts receiving distributions
27 under this paragraph "b".

28 (2) The combined actual enrollment for school districts,
29 for purposes of subparagraph (1), shall be calculated by
30 adding together the actual enrollment which attend school in
31 the county for each school district receiving distributions
32 under subparagraph (1) as determined by the department of
33 management based on the actual enrollment figures reported by
34 October 1 to the department of management by the department of
35 education pursuant to section 257.6, subsection 1. The

1 combined actual enrollment count shall be forwarded to the
2 director of revenue and finance by March 1, annually, for
3 purposes of supplying estimated tax payment figures and making
4 tax payments pursuant to subsection 2 for the following four
5 calendar quarters.

6 (3) If a county imposes the tax at a rate of less than one
7 percent or for less than a full fiscal year, the amount
8 available to the school districts within the county equals a
9 ratio of the tax rate divided by one percent multiplied by the
10 quotient of the number of quarters the tax is imposed divided
11 by four.

12 2. a. The director of revenue and finance by April 10
13 preceding each fiscal year shall send to each school district
14 an estimate of the amount of tax moneys each school district
15 will receive for the year and for each quarter of the year.
16 At the end of each quarter, the director may revise the
17 estimates for the year and remaining quarters.

18 b. The director shall remit ninety-five percent of the
19 estimated tax receipts collected during the previous calendar
20 quarter for the school district to the school district at or
21 before the end of the following calendar quarter.

22 c. The director shall remit a final payment of the
23 remainder of tax moneys due for the fiscal year before
24 November 10 of the next fiscal year. If an overpayment has
25 resulted during the previous fiscal year, the November payment
26 shall be adjusted to reflect any overpayment.

27 Sec. 5. NEW SECTION. 422F.3 IMPOSITION BY COUNTY --
28 REPEAL.

29 1. a. A local option school infrastructure sales tax
30 shall be imposed by a county only after an election at which a
31 majority of those voting on the question favors imposition. A
32 local option school infrastructure sales tax approved by a
33 majority vote shall apply to all incorporated and
34 unincorporated areas of the county.

35 b. Every county that has not voted on and approved prior

1 to April 1, 2003, a local sales and services tax for school
2 infrastructure purposes under chapter 422E or that has not
3 published notice of the ballot proposition prior to April 1,
4 2003, and subsequently approved such tax shall submit the
5 question of the imposition of a local option school
6 infrastructure sales tax at the time of the city regular
7 election on November 4, 2003. If the question of imposition
8 is not approved by a majority vote, subsequent elections on
9 the same question may be held as provided in subsection 2.
10 Upon approval of the tax by a majority vote, the tax shall be
11 imposed January 1, 2004, in the case of an election held on
12 November 4, 2003, or imposed January 1 or July 1 but not
13 sooner than ninety days following the favorable election, in
14 the case of an election held after November 4, 2003, but
15 before September 15, 2021. However, in the case of a county
16 that has voted on and approved a local sales and services tax
17 for school infrastructure purposes under chapter 422E prior to
18 April 1, 2003, or that has published notice of the ballot
19 proposition prior to April 1, 2003, and subsequently approved
20 such tax, the question of imposition of the tax under this
21 section shall specify the date when the tax under this section
22 shall become effective. The date shall only be on the date
23 specified for the repeal of the tax under chapter 422E, as
24 provided in that chapter. Upon the imposition of the tax
25 under this section the county's tax imposed under chapter 422E
26 is repealed.

27 2. After the original election required under subsection
28 1, at which the question of the imposition of the tax is not
29 approved by a majority, subsequent elections may be held prior
30 to September 15, 2021, as follows:

31 a. Upon receipt by a county board of supervisors of a
32 petition requesting imposition of a local option school
33 infrastructure sales tax, signed by eligible electors of the
34 whole county equal in number to five percent of the persons in
35 the whole county who voted at the last preceding state general

1 election, the board shall within thirty days direct the county
2 commissioner of elections to submit the question of imposition
3 of the tax to the registered voters of the whole county.

4 b. Alternatively, the question of imposition of a local
5 option school infrastructure sales tax may be proposed by
6 motion or motions, requesting such submission, adopted by the
7 governing body of a school district or school districts
8 located within the county containing a total, or a combined
9 total in the case of more than one school district, of at
10 least one-half of the population of the county, or by the
11 county board of supervisors. Upon adoption of such motion,
12 the governing body of a school district shall notify the board
13 of supervisors of the adoption of the motion. The county
14 board of supervisors shall submit the school districts' motion
15 or its own motion to the county commissioner of elections, who
16 shall publish notice of the ballot proposition concerning the
17 imposition of the local option school infrastructure sales
18 tax. A school district motion ceases to be valid at the time
19 of the holding of the regular election for the election of
20 members of the governing body which adopted the motion.

21 c. The method for holding an election as specified in
22 paragraphs "a" and "b" also apply to a county that has voted
23 on and approved a local sales and services tax for school
24 infrastructure purposes under chapter 422E prior to April 1,
25 2003, a county that has published notice of the ballot
26 proposition to impose the tax under chapter 422E prior to
27 April 1, 2003, and subsequently approved such tax, and a
28 county that has imposed a local option school infrastructure
29 tax under this chapter.

30 3. The county commissioner of elections shall submit the
31 question of imposition of a local option school infrastructure
32 sales tax at a state general election or at a special election
33 held at any time other than the time of a city regular
34 election. The election shall not be held sooner than sixty
35 days after publication of notice of the ballot proposition.

1 The state commissioner of elections shall establish by rule
2 the form for the ballot proposition which form shall be
3 uniform throughout the state.

4 4. a. The tax may be repealed or the rate increased, but
5 not above one percent, or decreased after an election at which
6 a majority of those voting on the question of repeal or rate
7 change favored the repeal or rate change. The election at
8 which the question of repeal or rate change is offered shall
9 be called and held in the same manner and under the same
10 conditions as provided in this section for the election on the
11 imposition of the tax. The election may be held at any time
12 but not sooner than sixty days following publication of the
13 ballot proposition. However, the tax shall not be repealed
14 before it has been in effect for one year.

15 b. (1) Within ten days of the election at which a
16 majority of those voting on the question favors the
17 imposition, repeal, or change in the rate of the tax, the
18 county commissioner of elections shall give written notice of
19 the result of the election by sending a copy of the abstract
20 of the votes from the favorable election to the director of
21 revenue and finance.

22 (2) A local option school infrastructure sales tax shall
23 not be repealed or reduced in rate if obligations are
24 outstanding which are payable as provided in section 422F.6,
25 unless funds sufficient to pay the principal, interest, and
26 premium, if any, on the outstanding obligations at and prior
27 to maturity have been properly set aside and pledged for that
28 purpose. However, this subparagraph does not apply to the
29 repeal of the tax on December 31, 2022, as specified in
30 subsection 5, paragraph "a".

31 5. a. Each local option school infrastructure sales tax
32 imposed as a result of a favorable election held before
33 September 15, 2021, is repealed on December 31, 2022, or on an
34 earlier date as provided on the ballot proposition.

35 b. A local option school infrastructure sales tax shall be

1 repealed June 30 or December 31, but not sooner than ninety
2 days, following the favorable election.

3 6. The director of revenue and finance shall credit tax
4 receipts and interest and penalties from the local option
5 school infrastructure sales tax to the school district
6 infrastructure sales tax fund created in section 422F.2,
7 subsection 1.

8 7. Costs of elections held pursuant to this section shall
9 be apportioned among school districts within the county on a
10 pro rata basis in proportion to the number of registered
11 voters in each school district who reside within the county
12 and the total number of registered voters within the county.

13 Sec. 6. NEW SECTION. 422F.4 COLLECTION AND
14 ADMINISTRATION OF TAX.

15 1. If a majority of those voting on the question of
16 imposition of a local option school infrastructure sales tax
17 favors imposition of the tax, the tax shall be imposed by the
18 county board of supervisors within the county pursuant to
19 section 422F.3, at the rate specified for not more than ten
20 years on the gross receipts taxed by the state under chapter
21 422, division IV.

22 2. The tax shall be imposed on the same basis as the state
23 sales and services tax or in the case of the use of natural
24 gas, natural gas service, electricity, or electric service on
25 the same basis as the state use tax and shall not be imposed
26 on the sale of any property or on any service not taxed by the
27 state, except the tax shall not be imposed on the gross
28 receipts from the sale of motor fuel or special fuel as
29 defined in chapter 452A which is consumed for highway use or
30 in watercraft or aircraft if the fuel tax is paid on the
31 transaction and a refund has not been or will not be allowed,
32 on the gross receipts from the rental of rooms, apartments, or
33 sleeping quarters which are taxed under chapter 422A during
34 the period the hotel and motel tax is imposed, on the gross
35 receipts taxed pursuant to chapter 422E during the period the

1 tax under chapter 422E is imposed, on the gross receipts from
2 the sale of equipment by the state department of
3 transportation, on the gross receipts from the sale of self-
4 propelled building equipment, pile drivers, motorized
5 scaffolding, or attachments customarily drawn or attached to
6 self-propelled building equipment, pile drivers, and motorized
7 scaffolding, including auxiliary attachments which improve the
8 performance, safety, operation, or efficiency of the
9 equipment, and replacement parts and are directly and
10 primarily used by contractors, subcontractors, and builders
11 for new construction, reconstruction, alterations, expansion,
12 or remodeling of real property or structures, and on the gross
13 receipts from the sale of a lottery ticket or share in a
14 lottery game conducted pursuant to chapter 99E and except the
15 tax shall not be imposed on the gross receipts from the sale
16 or use of natural gas, natural gas service, electricity, or
17 electric service in a city or county where the gross receipts
18 from the sale of natural gas or electric energy are subject to
19 a franchise fee or user fee during the period the franchise or
20 user fee is imposed.

21 3. The tax is applicable to transactions within the county
22 where it is imposed and shall be collected by all persons
23 required to collect state gross receipts or local excise
24 taxes. However, a person required to collect state retail
25 sales tax under chapter 422, division IV, is not required to
26 collect the local sales tax on transactions delivered within
27 the area where the local sales tax is imposed unless the
28 person has physical presence in that taxing area. The amount
29 of the sale, for purposes of determining the amount of the
30 tax, does not include the amount of any state gross receipts
31 or excise taxes or other local option sales or excise taxes.
32 A tax permit other than the state tax permit required under
33 section 422.53 or 423.10 shall not be required by local
34 authorities.

35 4. The local option school infrastructure sales tax shall

1 be administered as provided in section 422B.9.

2 5. Construction contractors may make application to the
3 department for a refund of the additional local option school
4 infrastructure sales tax paid under this chapter by reason of
5 taxes paid on goods, wares, or merchandise under the
6 conditions specified in section 422B.11. The refund shall be
7 paid by the department from the school district infrastructure
8 sales tax fund. The penalty provisions contained in section
9 422B.11, subsection 3, shall apply regarding an erroneous
10 application for refund of local option school infrastructure
11 sales tax paid under this chapter.

12 Sec. 7. NEW SECTION. 422F.5 USE OF SCHOOL DISTRICT SALES
13 TAX MONEYS.

14 1. a. Moneys received by a school district from the
15 school district infrastructure sales tax fund under section
16 422F.2, subsection 1, paragraph "b", shall be spent for
17 property tax relief or infrastructure purposes according to an
18 infrastructure plan developed by the board of directors. The
19 infrastructure plan may apply to more than one fiscal year,
20 but shall be reviewed periodically by the board of directors.
21 Prior to adoption of the plan, the board of directors shall
22 hold a public hearing on the question of approval of the
23 proposed plan. The board shall set forth its proposal and
24 shall publish the notice of the time and place of a public
25 hearing on the proposed plan. Notice of the time and place of
26 the public hearing shall be published not less than ten nor
27 more than twenty days before the public hearing in a newspaper
28 which is a newspaper of general circulation in the school
29 district. At the hearing, or no later than thirty days after
30 the date of the hearing, the board shall take action to adopt
31 the proposed plan.

32 b. If the board adopts the plan, the board shall direct
33 the county commissioner of elections to submit the question of
34 the approval or disapproval of the infrastructure plan to the
35 registered voters of the school district at the next following

1 regular school election or a special election. The question
2 of the approval or disapproval of the plan may be submitted at
3 the time of the election on the question of the imposition of
4 the tax. If a majority of those voting on the question favor
5 the plan of the board, the moneys received shall be used
6 according to the plan beginning with the first fiscal year
7 following that election until a change in the plan is approved
8 at a subsequent election by a majority of those voting on the
9 question. If a majority of those voting on the question at
10 the election does not favor the plan of the board, the
11 district shall use the moneys received as provided in
12 paragraph "c" for the fiscal year.

13 If a plan is not approved at an election, the question of
14 the approval of the plan or any part of that plan shall not be
15 submitted to the registered voters sooner than six months from
16 the date the plan or part of the plan was originally
17 submitted.

18 c. If the infrastructure plan is not approved at an
19 election as provided in paragraph "b", or if a plan is not
20 approved by the board, moneys received by a school district or
21 moneys in excess of those needed for infrastructure purposes
22 according to an approved plan shall be used for the fiscal
23 year to reduce the following levies including income surtax,
24 if any, in the following order:

25 (1) Bond levies under sections 298.18 and 298.18A and all
26 other debt levies until the moneys received or the levies are
27 reduced to zero.

28 (2) The regular physical plant and equipment levy under
29 section 298.2, until the moneys received or the levy is
30 reduced to zero.

31 (3) The voter-approved physical plant and equipment levy
32 and income surtax, if any, under section 298.2, until the
33 moneys received or the levy and income surtax, if any, is
34 reduced to zero.

35 (4) The public educational and recreational levy under

1 section 300.2, until the moneys received or the levy is
2 reduced to zero.

3 (5) The schoolhouse tax levy under section 278.1,
4 subsection 7, Code 1989, until the moneys received or the levy
5 is reduced to zero.

6 Any money remaining after the reduction of the levies
7 specified in this paragraph "c" may be used for any authorized
8 infrastructure purpose of the school district.

9 2. For purposes of this section, "infrastructure purposes"
10 means those purposes for which a school district is authorized
11 to contract indebtedness and issue general obligation bonds
12 under chapter 296 or to expend tax revenues under section
13 298.3, the payment of principal and interest on general
14 obligation bonds issued under chapter 296 or section 298.20 or
15 loan agreements under section 297.36, for carrying on public
16 educational and recreational activities pursuant to chapter
17 300, payments made pursuant to a real property lease or lease-
18 purchase agreement, or the payment of principal and interest
19 on bonds issued under 422F.6.

20 3. Notwithstanding any other provision in this section,
21 moneys received by a school district from the school district
22 infrastructure sales tax fund during the fiscal year beginning
23 July 1, 2003, shall be dedicated for property tax relief by
24 reducing the levies specified in subsection 1, paragraph "c",
25 for taxes payable in the fiscal year beginning July 1, 2004.
26 However, if an infrastructure plan is approved at an election
27 by the required majority of those voting prior to March 1,
28 2004, any amount of such dedicated moneys may be used for the
29 purposes specified under the plan.

30 Sec. 8. NEW SECTION. 422F.6 BONDING.

31 The board of directors of a school district shall be
32 authorized to issue negotiable, interest-bearing school bonds,
33 without election, and utilize tax receipts derived from the
34 local option school infrastructure sales tax for principal and
35 interest repayment. Proceeds of the bonds issued pursuant to

1 this section shall be utilized solely for school
2 infrastructure purposes as defined in section 422F.1,
3 subsection 3. Issuance of bonds pursuant to this section
4 shall be permitted only in a district which has imposed a
5 local option school infrastructure sales tax pursuant to
6 section 422F.3. The provisions of sections 298.22 through
7 298.24 shall apply regarding the form, rate of interest,
8 registration, redemption, and recording of bond issues
9 pursuant to this section, with the exception that the maximum
10 period during which principal on the bonds is payable shall
11 not exceed a ten-year period, or the date of repeal stated on
12 the ballot proposition.

13 A school district in which a local option school
14 infrastructure sales tax has been imposed shall be authorized
15 to enter into a chapter 28E agreement with one or more cities
16 or a county whose boundaries encompass all or a part of the
17 area of the school district. A city or cities entering into a
18 chapter 28E agreement shall be authorized to expend its
19 designated portion of the local option school infrastructure
20 sales tax revenues for any valid purpose permitted in this
21 chapter or authorized by the governing body of the city. A
22 county entering into a chapter 28E agreement with a school
23 district in which a local option school infrastructure sales
24 tax has been imposed shall be authorized to expend its
25 designated portion of the local option school infrastructure
26 sales tax revenues to provide property tax relief within the
27 boundaries of the school district located in the county. A
28 school district where a local option school infrastructure
29 sales tax is imposed is also authorized to enter into a
30 chapter 28E agreement with another school district, a
31 community college, or an area education agency which is
32 located partially or entirely in or is contiguous to the
33 county where the tax is imposed. The school district or
34 community college shall only expend its designated portion of
35 the local option school infrastructure sales tax for

1 infrastructure purposes. The area education agency shall only
2 expend its designated portion of the local option school
3 infrastructure sales tax for infrastructure and maintenance
4 purposes.

5 The governing body of a city may authorize the issuance of
6 bonds which are payable from its designated portion of the
7 revenues of the local option school infrastructure sales tax,
8 and not from property tax, by following the authorization
9 procedures set forth for cities in section 384.83. A city may
10 pledge irrevocably any amount derived from its designated
11 portions of the revenues of the local option school |
12 infrastructure sales tax to the support or payment of such
13 bonds.

14 Sec. 9. NEW SECTION. 422F.7 REPEAL.

15 This chapter is repealed June 30, 2023, for fiscal years
16 beginning after that date.

17 Sec. 10. EFFECTIVE DATE. This Act, being deemed of
18 immediate importance, takes effect April 1, 2003.

19 EXPLANATION

20 Present law provides for counties to impose a local sales
21 and services tax for school infrastructure purposes under Code
22 chapter 422E. This bill sets a moratorium on imposition by a
23 county of such tax. However, those counties that have voted
24 on and approved the tax prior to April 1, 2003, may continue
25 to impose the tax. In addition, a county that has published
26 notice of the ballot proposition prior to April 1, 2003, and
27 subsequently approved the tax may impose and continue the tax.

28 The bill provides for a new local option school |
29 infrastructure sales tax under new Code chapter 422F which tax
30 is very similar to the present one. Each county that does not
31 have a chapter 422E tax in place on April 1, 2003, or has not
32 published the ballot proposition by April 1, 2003, and
33 approved the chapter 422E tax must hold an election on the
34 question of imposing the new tax at the time of the regular
35 city election on November 4, 2003. If the question of

1 imposition is not approved by a majority of the voters,
2 subsequent elections may be held. The imposition of the new
3 tax must be on January 1 or July 1. However, for those
4 counties that have voted on and approved the tax under Code
5 chapter 422E, the new tax cannot take effect until the Code
6 chapter 422E tax is repealed. The new local option tax may be
7 imposed for a period of up to 10 years. However, all local
8 option taxes are repealed December 31, 2022, and the chapter
9 is repealed on June 30, 2023.

10 Moneys collected from the tax shall be deposited into a
11 single statewide fund. School districts located in whole or
12 in part in a county that has imposed the new tax will receive
13 distributions from the single fund on a per pupil basis.
14 Moneys received are to be used for school infrastructure
15 purposes according to a plan adopted by the board of directors
16 and approved by the voters.

17 If a plan is not adopted or approved, the moneys received
18 are to be used for property tax relief by reducing the debt
19 service levies, then the physical plant and equipment levies,
20 then the public educational and recreational levy, and finally
21 the previously authorized schoolhouse levy.

22 The bill takes effect April 1, 2003.

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SSB 1093

Succeeded By

①/HF 314

Angelo
Boettger
Connolly

Education

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
EDUCATION BILL BY
CHAIRPERSON BOETTGER)

Passed Senate, Date _____

Passed House, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

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1 Section 1. Section 422E.1, Code 2003, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 4. a. This chapter does not apply to any
4 county on or after April 1, 2003, except to the extent
5 provided in paragraph "b".

6 b. A county that has voted on and approved prior to April
7 1, 2003, a local sales and services tax for school
8 infrastructure purposes shall impose the tax until the end of
9 the ten-year period or the date for repeal specified on the
10 ballot.

11 Sec. 2. NEW SECTION. 422F.1 AUTHORIZATION -- RATE OF TAX
12 -- USE OF REVENUES.

13 1. A local option school infrastructure sales tax may be
14 imposed by a county on behalf of school districts as provided
15 in this chapter.

16 If a local option school infrastructure sales tax is
17 imposed by a county pursuant to this chapter, a local excise
18 tax for school infrastructure at the same rate shall be
19 imposed by the county on the purchase price of natural gas,
20 natural gas service, electricity, or electric service subject
21 to tax under chapter 423 and not exempted from tax by any
22 provision of chapter 423. The local excise tax for school
23 infrastructure is applicable only to the use of natural gas,
24 natural gas service, electricity, or electric service within
25 the incorporated and unincorporated areas of the county where
26 it is imposed and, except as otherwise provided in this
27 chapter, shall be collected and administered in the same
28 manner as the local option school infrastructure sales tax.
29 For purposes of this chapter, "local option school
30 infrastructure sales tax" shall also include the local excise
31 tax for school infrastructure.

32 2. The maximum rate of tax shall be one percent. The tax
33 shall be imposed without regard to any other local sales and
34 services tax authorized in chapter 422B, and is repealed on
35 December 31, 2013, or on an earlier date as provided in the

1 ballot proposition. The tax is in lieu of the local sales and
2 services tax for school infrastructure authorized in chapter
3 422E.

4 3. Local option school infrastructure sales tax moneys
5 received by a county pursuant to this chapter shall be
6 utilized for school infrastructure purposes or property tax
7 relief. For purposes of this chapter, "school infrastructure
8 purposes" means those purposes for which a school district is
9 authorized to contract indebtedness and issue general
10 obligation bonds under chapter 296 or to expend tax revenues
11 under section 298.3, the payment of principal and interest on
12 general obligation bonds issued under chapter 296 or section
13 298.20 or loan agreements under section 297.36, for carrying
14 on public educational and recreational activities pursuant to
15 chapter 300, payments made pursuant to a lease or lease-
16 purchase agreement, or the payment of principal and interest
17 on bonds issued under section 422F.5.

18 Sec. 3. NEW SECTION. 422F.2 SCHOOL DISTRICT
19 INFRASTRUCTURE SALES TAX FUND.

20 1. a. A school district infrastructure sales tax fund is
21 created as a separate and distinct fund in the state treasury
22 under the control of the department of revenue and finance.
23 Moneys in the fund include revenues credited to the fund
24 pursuant to section 422F.3, subsection 6, from all counties
25 that impose the tax, appropriations made to the fund, and
26 other moneys deposited into the fund. The moneys credited in
27 a fiscal year to the fund shall be distributed as provided in
28 paragraph "b".

29 b. (1) Each school district located in whole or in part
30 in a county that has imposed the local option school
31 infrastructure sales tax pursuant to this chapter shall
32 receive distributions for each student attending school in the
33 county on a per student basis calculated by the director of
34 revenue and finance by dividing the moneys available during
35 the previous calendar quarter by the combined actual

1 enrollment for all school districts receiving distributions
2 under this paragraph "b".

3 (2) The combined actual enrollment for school districts,
4 for purposes of subparagraph (1), shall be calculated by
5 adding together the actual enrollment which attend school in
6 the county for each school district receiving distributions
7 under subparagraph (1) as determined by the department of
8 management based on the actual enrollment figures reported by
9 October 1 to the department of management by the department of
10 education pursuant to section 257.6, subsection 1. The
11 combined actual enrollment count shall be forwarded to the
12 director of revenue and finance by March 1, annually, for
13 purposes of supplying estimated tax payment figures and making
14 tax payments pursuant to subsection 2 for the following four
15 calendar quarters.

16 (3) If a county imposes the tax at a rate of less than one
17 percent or for less than a full fiscal year, the amount
18 available to the school districts within the county equals a
19 ratio of the tax rate divided by one percent multiplied by the
20 quotient of the number of quarters the tax is imposed divided
21 by four.

22 2. a. The director of revenue and finance by April 10
23 preceding each fiscal year shall send to each school district
24 an estimate of the amount of tax moneys each school district
25 will receive for the year and for each quarter of the year.
26 At the end of each quarter, the director may revise the
27 estimates for the year and remaining quarters.

28 b. The director shall remit ninety-five percent of the
29 estimated tax receipts collected during the previous calendar
30 quarter for the school district to the school district at or
31 before the end of the following calendar quarter.

32 c. The director shall remit a final payment of the
33 remainder of tax moneys due for the fiscal year before
34 November 10 of the next fiscal year. If an overpayment has
35 resulted during the previous fiscal year, the November payment

1 shall be adjusted to reflect any overpayment.

2 Sec. 4. NEW SECTION. 422F.3 IMPOSITION BY COUNTY --
3 REPEAL.

4 1. a. A local option school infrastructure sales tax
5 shall be imposed by a county only after an election at which a
6 majority of those voting on the question favors imposition. A
7 local option school infrastructure sales tax approved by a
8 majority vote shall apply to all incorporated and
9 unincorporated areas of the county.

10 b. Every county that has not voted on and approved prior
11 to April 1, 2003, a local sales and services tax for school
12 infrastructure purposes under chapter 422E shall hold a
13 special election on the question of the imposition of a local
14 option school infrastructure sales tax on October 14, 2003.
15 If the question of imposition is not approved by a majority
16 vote, subsequent elections on the same question may be held as
17 provided in subsection 2. Upon approval of the tax by a
18 majority vote, the tax shall be imposed January 1, 2004, in
19 the case of an election held on October 14, 2003, or imposed
20 January 1 or July 1 but not sooner than ninety days following
21 the favorable election, in the case of an election held after
22 October 14, 2003, but before September 15, 2012. However, in
23 the case of a county that has voted on and approved a local
24 sales and services tax for school infrastructure purposes
25 under chapter 422E prior to April 1, 2003, the question of
26 imposition of the tax under this section shall specify the
27 date when the tax under this section shall become effective.
28 The date shall only be on the date specified for the repeal of
29 the tax under chapter 422E, as provided in that chapter. Upon
30 the imposition of the tax under this section the county's tax
31 imposed under chapter 422E is repealed.

32 2. After the original election required under subsection
33 1, at which the question of the imposition of the tax is not
34 approved by a majority, subsequent elections may be held prior
35 to September 15, 2012, as follows:

1 a. Upon receipt by a county board of supervisors of a
2 petition requesting imposition of a local option school
3 infrastructure sales tax, signed by eligible electors of the
4 whole county equal in number to five percent of the persons in
5 the whole county who voted at the last preceding state general
6 election, the board shall within thirty days direct the county
7 commissioner of elections to submit the question of imposition
8 of the tax to the registered voters of the whole county.

9 b. Alternatively, the question of imposition of a local
10 option school infrastructure sales tax may be proposed by
11 motion or motions, requesting such submission, adopted by the
12 governing body of a school district or school districts
13 located within the county containing a total, or a combined
14 total in the case of more than one school district, of at
15 least one-half of the population of the county, or by the
16 county board of supervisors. Upon adoption of such motion,
17 the governing body of a school district shall notify the board
18 of supervisors of the adoption of the motion. The county
19 board of supervisors shall submit the school districts' motion
20 or its own motion to the county commissioner of elections, who
21 shall publish notice of the ballot proposition concerning the
22 imposition of the local option school infrastructure sales
23 tax. A school district motion ceases to be valid at the time
24 of the holding of the regular election for the election of
25 members of the governing body which adopted the motion.

26 c. The method for holding an election as specified in
27 paragraphs "a" and "b" also apply to a county that has voted
28 on and approved a local sales and services tax for school
29 infrastructure purposes under chapter 422E prior to April 1,
30 2003.

31 3. The county commissioner of elections shall submit the
32 question of imposition of a local option school infrastructure
33 sales tax at a state general election or at a special election
34 held at any time other than the time of a city regular
35 election. The election shall not be held sooner than sixty

1 days after publication of notice of the ballot proposition.
2 The state commissioner of elections shall establish by rule
3 the form for the ballot proposition which form shall be
4 uniform throughout the state.

5 4. a. The tax may be repealed or the rate increased, but
6 not above one percent, or decreased after an election at which
7 a majority of those voting on the question of repeal or rate
8 change favored the repeal or rate change. The election at
9 which the question of repeal or rate change is offered shall
10 be called and held in the same manner and under the same
11 conditions as provided in this section for the election on the
12 imposition of the tax. The election may be held at any time
13 but not sooner than sixty days following publication of the
14 ballot proposition. However, the tax shall not be repealed
15 before it has been in effect for one year.

16 b. (1) Within ten days of the election at which a
17 majority of those voting on the question favors the
18 imposition, repeal, or change in the rate of the tax, the
19 county commissioner of elections shall give written notice of
20 the result of the election by sending a copy of the abstract
21 of the votes from the favorable election to the director of
22 revenue and finance.

23 (2) A local option school infrastructure sales tax shall
24 not be repealed or reduced in rate if obligations are
25 outstanding which are payable as provided in section 422F.6,
26 unless funds sufficient to pay the principal, interest, and
27 premium, if any, on the outstanding obligations at and prior
28 to maturity have been properly set aside and pledged for that
29 purpose. However, this subparagraph does not apply to the
30 repeal of the tax on December 31, 2013, as specified in
31 subsection 5, paragraph "a".

32 5. a. Each local option school infrastructure sales tax
33 imposed as a result of a favorable election held before
34 September 15, 2012, is repealed on December 31, 2013, or on an
35 earlier date as provided on the ballot proposition.

1 b. A local option school infrastructure sales tax shall be
2 repealed June 30 or December 31, but not sooner than ninety
3 days, following the favorable election.

4 6. The director of revenue and finance shall credit tax
5 receipts and interest and penalties from the local option
6 school infrastructure sales tax to the school district
7 infrastructure sales tax fund created in section 422F.2,
8 subsection 1.

9 7. Costs of elections held pursuant to this section shall
10 be apportioned among school districts within the county on a
11 pro rata basis in proportion to the number of registered
12 voters in each school district who reside within the county
13 and the total number of registered voters within the county.

14 Sec. 5. NEW SECTION. 422F.4 COLLECTION AND
15 ADMINISTRATION OF TAX.

16 1. If a majority of those voting on the question of
17 imposition of a local option school infrastructure sales tax
18 favors imposition of the tax, the tax shall be imposed by the
19 county board of supervisors within the county pursuant to
20 section 422F.3, at the rate specified on the gross receipts
21 taxed by the state under chapter 422, division IV.

22 2. The tax shall be imposed on the same basis as the state
23 sales and services tax or in the case of the use of natural
24 gas, natural gas service, electricity, or electric service on
25 the same basis as the state use tax and shall not be imposed
26 on the sale of any property or on any service not taxed by the
27 state, except the tax shall not be imposed on the gross
28 receipts from the sale of motor fuel or special fuel as
29 defined in chapter 452A which is consumed for highway use or
30 in watercraft or aircraft if the fuel tax is paid on the
31 transaction and a refund has not been or will not be allowed,
32 on the gross receipts from the rental of rooms, apartments, or
33 sleeping quarters which are taxed under chapter 422A during
34 the period the hotel and motel tax is imposed, on the gross
35 receipts taxed pursuant to chapter 422E during the period the

1 tax under chapter 422E is imposed, on the gross receipts from
2 the sale of equipment by the state department of
3 transportation, on the gross receipts from the sale of self-
4 propelled building equipment, pile drivers, motorized
5 scaffolding, or attachments customarily drawn or attached to
6 self-propelled building equipment, pile drivers, and motorized
7 scaffolding, including auxiliary attachments which improve the
8 performance, safety, operation, or efficiency of the
9 equipment, and replacement parts and are directly and
10 primarily used by contractors, subcontractors, and builders
11 for new construction, reconstruction, alterations, expansion,
12 or remodeling of real property or structures, and on the gross
13 receipts from the sale of a lottery ticket or share in a
14 lottery game conducted pursuant to chapter 99E and except the
15 tax shall not be imposed on the gross receipts from the sale
16 or use of natural gas, natural gas service, electricity, or
17 electric service in a city or county where the gross receipts
18 from the sale of natural gas or electric energy are subject to
19 a franchise fee or user fee during the period the franchise or
20 user fee is imposed.

21 3. The tax is applicable to transactions within the county
22 where it is imposed and shall be collected by all persons
23 required to collect state gross receipts or local excise
24 taxes. However, a person required to collect state retail
25 sales tax under chapter 422, division IV, is not required to
26 collect the local sales tax on transactions delivered within
27 the area where the local sales tax is imposed unless the
28 person has physical presence in that taxing area. The amount
29 of the sale, for purposes of determining the amount of the
30 tax, does not include the amount of any state gross receipts
31 or excise taxes or other local option sales or excise taxes.
32 A tax permit other than the state tax permit required under
33 section 422.53 or 423.10 shall not be required by local
34 authorities.

35 4. The local option school infrastructure sales tax shall

1 be administered as provided in section 422B.9.

2 5. Construction contractors may make application to the
3 department for a refund of the additional local option school
4 infrastructure sales tax paid under this chapter by reason of
5 taxes paid on goods, wares, or merchandise under the
6 conditions specified in section 422B.11. The refund shall be
7 paid by the department from the school district infrastructure
8 sales tax fund. The penalty provisions contained in section
9 422B.11, subsection 3, shall apply regarding an erroneous
10 application for refund of local option school infrastructure
11 sales tax paid under this chapter.

12 Sec. 6. NEW SECTION. 422F.5 USE OF SCHOOL DISTRICT SALES
13 TAX MONEYS.

14 1. a. Moneys received by a school district from the
15 school district infrastructure sales tax fund under section
16 422F.2, subsection 1, paragraph "b", shall be spent for
17 property tax relief or infrastructure purposes according to an
18 infrastructure plan developed by the board of directors. The
19 infrastructure plan may apply to more than one fiscal year,
20 but shall be reviewed periodically by the board of directors.
21 Prior to adoption of the plan, the board of directors shall
22 hold a public hearing on the question of approval of the
23 proposed plan. The board shall set forth its proposal and
24 shall publish the notice of the time and place of a public
25 hearing on the proposed plan. Notice of the time and place of
26 the public hearing shall be published not less than ten nor
27 more than twenty days before the public hearing in a newspaper
28 which is a newspaper of general circulation in the school
29 district. At the hearing, or no later than thirty days after
30 the date of the hearing, the board shall take action to adopt
31 the proposed plan.

32 b. If the board adopts the plan, the board shall direct
33 the county commissioner of elections to submit the question of
34 the approval or disapproval of the infrastructure plan to the
35 registered voters of the school district at the next following

1 regular school election or a special election. If a majority
2 of those voting on the question favor the plan of the board,
3 the moneys received shall be used according to the plan
4 beginning with the first fiscal year following that election
5 until a change in the plan is approved at a subsequent
6 election by a majority of those voting on the question. If a
7 majority of those voting on the question at the election does
8 not favor the plan of the board, the district shall use the
9 moneys received as provided in paragraph "c" for the fiscal
10 year.

11 If a plan is not approved at an election, the question of
12 the approval of the plan or any part of that plan shall not be
13 submitted to the registered voters sooner than six months from
14 the date the plan or part of the plan was originally
15 submitted.

16 c. If the infrastructure plan is not approved at an
17 election as provided in paragraph "b", or if a plan is not
18 approved by the board, moneys received by a school district or
19 moneys in excess of those needed for infrastructure purposes
20 according to an approved plan shall be used for the fiscal
21 year to reduce the following levies including income surtax,
22 if any, in the following order:

23 (1) Bond levies under sections 298.18 and 298.18A and all
24 other debt levies until the moneys received or the levies are
25 reduced to zero.

26 (2) The regular physical plant and equipment levy under
27 section 298.2, until the moneys received or the levy is
28 reduced to zero.

29 (3) The voter-approved physical plant and equipment levy
30 and income surtax, if any, under section 298.2, until the
31 moneys received or the levy and income surtax, if any, is
32 reduced to zero.

33 (4) The public educational and recreational levy under
34 section 300.2, until the moneys received or the levy is
35 reduced to zero.

1 (5) The schoolhouse tax levy under section 278.1,
2 subsection 7, Code 1989, until the moneys received or the levy
3 is reduced to zero.

4 Any money remaining after the reduction of the levies
5 specified in this paragraph "c" may be used for any authorized
6 infrastructure purpose of the school district.

7 2. For purposes of this section, "infrastructure purposes"
8 means those purposes for which a school district is authorized
9 to contract indebtedness and issue general obligation bonds
10 under chapter 296 or to expend tax revenues under section
11 298.3, the payment of principal and interest on general
12 obligation bonds issued under chapter 296 or section 298.20 or
13 loan agreements under section 297.36, for carrying on public
14 educational and recreational activities pursuant to chapter
15 300, payments made pursuant to a real property lease or lease-
16 purchase agreement, or the payment of principal and interest
17 on bonds issued under 422F.6.

18 3. Notwithstanding any other provision in this section,
19 moneys received by a school district from the school district
20 infrastructure sales tax fund during the fiscal year beginning
21 July 1, 2003, shall be dedicated for property tax relief by
22 reducing the levies specified in subsection 1, paragraph "c",
23 for taxes payable in the fiscal year beginning July 1, 2004.
24 However, if an infrastructure plan is approved at an election
25 by the required majority of those voting prior to March 1,
26 2004, any amount of such dedicated moneys may be used for the
27 purposes specified under the plan.

28 Sec. 7. NEW SECTION. 422F.6 BONDING.

29 The board of directors of a school district shall be
30 authorized to issue negotiable, interest-bearing school bonds,
31 without election, and utilize tax receipts derived from the
32 local option school infrastructure sales tax for principal and
33 interest repayment. Proceeds of the bonds issued pursuant to
34 this section shall be utilized solely for school
35 infrastructure purposes as defined in section 422F.1,

1 subsection 3. Issuance of bonds pursuant to this section
2 shall be permitted only in a district which has imposed a
3 local option school infrastructure sales tax pursuant to
4 section 422F.3. The provisions of sections 298.22 through
5 298.24 shall apply regarding the form, rate of interest,
6 registration, redemption, and recording of bond issues
7 pursuant to this section, with the exception that the maximum
8 period during which principal on the bonds is payable shall
9 not exceed a ten-year period, or the date of repeal stated on
10 the ballot proposition.

11 A school district in which a local option school
12 infrastructure sales tax has been imposed shall be authorized
13 to enter into a chapter 28E agreement with one or more cities
14 or a county whose boundaries encompass all or a part of the
15 area of the school district. A city or cities entering into a
16 chapter 28E agreement shall be authorized to expend its
17 designated portion of the local option school infrastructure
18 sales tax revenues for any valid purpose permitted in this
19 chapter or authorized by the governing body of the city. A
20 county entering into a chapter 28E agreement with a school
21 district in which a local option school infrastructure sales
22 tax has been imposed shall be authorized to expend its
23 designated portion of the local option school infrastructure
24 sales tax revenues to provide property tax relief within the
25 boundaries of the school district located in the county. A
26 school district where a local option school infrastructure
27 sales tax is imposed is also authorized to enter into a
28 chapter 28E agreement with another school district, a
29 community college, or an area education agency which is
30 located partially or entirely in or is contiguous to the
31 county where the tax is imposed. The school district,
32 community college, or area education agency shall only expend
33 its designated portion of the local option school
34 infrastructure sales tax for infrastructure purposes.

35 The governing body of a city may authorize the issuance of

1 in part in a county that has imposed the new tax will receive
2 distributions from the single fund on a per pupil basis.
3 Moneys received are to be used for school infrastructure
4 purposes according to a plan adopted by the board of directors
5 and approved by the voters.

6 If a plan is not adopted or approved, the moneys received
7 are to be used for property tax relief by reducing the debt
8 service levies, then the physical plant and equipment levies,
9 then the public educational and recreational levy, and finally
10 the previously authorized schoolhouse levy.

11 The bill takes effect April 1, 2003.

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